IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

-

WRIT PETITION NO : 19550 of 1993

Between:

N. Rama Rao, S/o. N. Venkata Subba Rao, Hindu, aged about 49 yeaqrs,

Driver, APSRTC, RTC Colony, Pamarru Road, Gudivada

..... PETITIONER

AND

1. The Divisional Manager, APSRTC, Krishna Division, Vijayawada
2. Depot Manager, APSRTC, Gudivada, Krishna District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order more especially one in the nature of writ of mandamus declaring the action of the respondents in not fixing the petitioner's basic pay at Rs.2055/- on par with his colleagues who are similarly situated as illegal, arbitrary and un-constitutional and consequentially direct the respondents to fix petitioner's basic pay at Rs.2055/- on par with his colleagues who were given the same and consequentially direct the respondents to give the benefits from the date of initial appointments by verifying the records and set out the anomaly in the service records along with all consequential benefits as paid in the case of the petitioner's juniors;

Counsel for the Petitioner: MR.RAVI SHANKAR JANDHYALA

Counsel for the Respondents: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court made the following :

ORDER:

This writ petition is filed seeking a Mandamus declaring the action of the respondents in not fixing the petitioner's basic pay at Rs.2055/- on par with his colleagues who are similarly situated as arbitrary, illegal and consequently direct the respondents to fix his basic pay at Rs.2055/- and pay all the arrears from the date of his initial appointment etc.

It is the case of the petitioner that he was appointed as a driver in APSRTC in the year 1970. Subsequently his services were regularized with effect from 1-9-1992. His grievance is that his basic pay was fixed at Rs.1890/- in the scale attached to the post of driver, whereas the basic pay of all his colleagues was fixed at Rs.2005/-. Thus, there is a discrimination and seeks a direction to the respondents to fix his pay at Rs.2055/- on par with his colleagues.

The respondents have filed a detailed counter denying the allegations made by the petitioner. It is stated that the petitioner availed 47 days of leave without pay, which resulted in postponing of his increment by one month. Further, he was also promoted as a Grade-I driver. Therefore, he had lost the chance of getting special grade, which could be granted only to an employee who stagnated for more than 12 years in the very same post without any promotion. The colleagues of the petitioner, on the other hand, were awarded the special grade increment due to stagnation of their promotion. Subsequently, they were also promoted as Grade-I drivers. This is the reason for the difference of pay between the petitioner and his colleagues. Thus, the pay of the petitioner was rightly fixed at Rs.1945/- and not as claimed by him at Rs.2055/- which was paid to his colleagues.

From the above, it is seen that the petitioner availed 47 days of leave without pay, resulting in postponement of his increment, and further he was also promoted before

effecting the special grade increments. Thus, the petitioner cannot have any grievance against his colleagues who are similarly situated. Since they were placed in different circumstances, they got the basic pay fixed at Rs.2055/-. The petitioner's claim is only speculative and imaginary. The writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ is dismissed. No costs.

_____

C.V. RAMULU, J

Dt. 23/02/2005

To

1. The Divisional Manager, APSRTC, Krishna Division, Vijayawada
2. The Depot Manager, APSRTC, Gudivada, Krishna District.
3. Two CD copies.